

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

FRANCOISE FLANNIGAN, Individually §
and for Others Similarly Situated, §
§
Plaintiff, §
§
V. § CIVIL ACTION NO. SA-23-CA-1206-FB
§
SENIOR PATH SPECIALISTS, LLC, §
§
§
Defendant. §

ORDER ACCEPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Before the Court is the Report and Recommendation of United States Magistrate Judge (docket no. 31) filed in the above-captioned cause on July 11, 2024. To date, no objections to the Report and Recommendation have been received.¹

Because no party has objected to the Magistrate Judge's Report and Recommendation, the Court need not conduct a de novo review. *See* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made."). The Court has reviewed the Report and Recommendation and finds its reasoning to be neither clearly erroneous nor contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918 (1989).

IT IS THEREFORE ORDERED that the Report and Recommendation of United States Magistrate Judge (docket no. 31) is ACCEPTED pursuant to 28 U.S.C. § 636(b)(1) such that Defendant Senior Path Specialists, LLC's Rule 12(b)(6) Motion to Dismiss for Failure to State a Claim (docket

¹ Any party who desires to object to a Magistrate's findings and recommendations must serve and file his, her or its written objections within fourteen days after being served with a copy of the findings and recommendation. 28 U.S.C. § 635(b)(1). If service upon a party is made by mailing a copy to the party's last known address, "service is complete upon mailing." FED. R. CIV. P. 5(b)(2)(C). If service is by electronic means, "service is complete upon transmission." *Id.* at (E).

no. 9) is GRANTED IN PART and DENIED in PART. The motion is DENIED as it pertains to Plaintiff's FLSA overtime claim, but GRANTED as it pertains to Plaintiff's FLSA minimum-wage claim, and Plaintiff is PERMITTED the opportunity to amend her complaint, **on or before August 29, 2024**, to allege a plausible number of hours worked per day. This case continues to be referred to the Magistrate Judge for further pretrial proceedings.

It is so ORDERED.

SIGNED this 8th day of August, 2024.



FRED BIERY
UNITED STATES DISTRICT JUDGE